Decision 04-11-035 November 19, 2004

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the Santa Clara Valley Transportation Authority for an Order Approving Safety Appliances to be Used at the At-Grade Crossings of Sunol Street (82D-4.1) and Auzerais Avenue (82D-4.2) by the Light Rail Transit Line of the Vasona Light Rail Project in the City of San Jose, County of San Clara.	Application 02-01-031 (Filed January 28, 2002)

OPINION GRANTING APPLICATION

1. Summary

The application of Santa Clara Valley Transportation Authority (SCVTA) for approval of warning devices planned for two closely-spaced crossings on the Vasona Corridor Light Rail Extension (Vasona Project) in the City of San Jose (City), County of Santa Clara is approved, with conditions. This proceeding is closed.

2. Procedural Background

SCVTA filed an application for approval of warning devices planned for the two crossings near the intersection of Sunol Street and Auzerais Avenue in the City on January 28, 2002. Commission staff filed a protest to the application on March 29, 2002. After discussions with staff, SCVTA filed a First Amended Application (amended application) on March 11, 2003. The amended application was protested by Floor Service Supply Company (FSSC) on April 9, 2003. In its prehearing conference (PHC) statement, filed October 6, 2003, staff withdrew its

protest and indicated its intention not to participate as a party in this proceeding, leaving FSSC as the only protestant.

Following the PHC held on October 9, 2003, the Assigned Commissioner issued a scoping memo on October 30, 2003 in which the preliminary categorization as Ratesetting was confirmed and it was determined that an evidentiary hearing was needed. The evidentiary hearing was held February 9-11, 2004. Opening briefs were submitted March 22, 2004 and reply briefs were submitted April 5, 2004. In a ruling dated June 9, 2004, the Administrative Law Judge (ALJ) *sua sponte* reopened the record to request additional information. This matter was submitted July 30, 2004.

3. Statement of Facts

3.1 Initial Project Description[1]

SCVTA's Vasona Project extends from downtown San Jose to the Vasona Junction in Los Gatos. As part of the Vasona Project, SCVTA plans to improve two closely-spaced at-grade crossings in the City, each approximately 150 feet from the intersection of Sunol Street and Auzerais Avenue. (A map showing the area of these crossings and some others in the Vasona Project is attached as Appendix A.) As originally proposed, SCVTA would relocate two existing crossing gates to make them parallel to the tracks and add a new gate, located on public rights-of-way, across the Auzerais driveway to FSSC's premises; it would also close one of the entrances to FSSC's premises on Sunol. SCVTA will install a set of traffic signals at the Sunol / Auzerais intersection, replacing the existing

[1] SCVTA's revised project proposal is set out in § 3.7, below.

four-way stop, and an additional traffic signal on southbound Sunol Street in advance of the crossing, as a "presignal."

The traffic signals are designed to allow time for traffic to clear the areas where vehicles might queue near or onto the tracks. The signals run in an ordinary cycle until the approach of a train is electronically indicated to the signal controller. The signals then begin to operate in "preempt" mode. The presignal eight feet north of the crossing arm on southbound Sunol Street is an ordinary three-light traffic signal and is intended to stop traffic before the Sunol crossing. It is timed to show red during the last few seconds of the green aspect of the signal at the intersection, stopping traffic at the presignal but allowing traffic beyond the presignal to proceed through the intersection. The signals at the intersection are to be set for a 24-second clearance (green) interval for Sunol Street, followed by a 24-second clearance interval for Auzerais Avenue traffic. These will be followed by a period when all signals are red, stopping all traffic while a train goes through the crossings.[2]

The warning device configuration is somewhat unusual, responding to the diagonal configuration of the tracks crossing two streets in close proximity, as well as the relationship of the FSSC driveways to the crossings. On the Auzerais side, SCVTA proposed to place two Standard No. 9's (flashing light signals with automatic gates) to warn and control traffic on Auzerais.[3] In addition, a gate with Standard No. 9 warning signals would be placed so that the gate will

[2] It is standard practice to check signal function and make adjustments to the timing of intervals after the signals are in operation. SCVTA intends to monitor the signals and make any needed adjustments.

[3] Standards for crossing protection are set forth in General Order (GO) 75-C.

descend across FSSC's Auzerais driveway on the same timing as the crossing gates. On the Sunol side, there will be two Standard No. 9's on either side of the crossing. At each crossing there will also be tactile strips and signs to warn pedestrians.

3.2 California Environmental Quality Act

SCVTA is the lead agency under the California Environmental Quality Act (CEQA), Pub. Res. Code § 21000 *et seq.*, for the Vasona Project. The Commission is a responsible agency under CEQA with respect to this application. SCVTA certified the final Environmental Impact Report (EIR) required by CEQA for the Vasona Project on May 4, 2000.[4] SCVTA filed a Notice of Determination with the Office of Planning and Research and the Santa Clara County Clerk on May 5, 2000.

The EIR addressed the Sunol Street / Auzerais Avenue intersection in a section on at-grade crossings in the Vasona Project:

> The Light Rail Transit (LRT) alignment would cross the north and west leg of the Sunol Street / Auzerais Avenue intersection. The project will install a traffic signal at this intersection, which is currently a four-way stop. The LRT tracks would cross both Sunol and Auzerais in proximity to the intersection. Therefore, no traffic movements would proceed with light rail. It is not anticipated that the light rail operations would create a significant impact in terms of

[4] This document also served as the Final Environmental Impact Statement under the National Environmental Policy Act (NEPA), 42 U.S.C. § 4321 et seq. Because NEPA is not relevant to our decision, we refer to this document as the "EIR."

queuing. The LRT would be running at 56 km / hr (35 mph) at this gated intersection.[5]

3.3 FSSC Premises

FSSC operates a wholesale flooring supply business. Its facilities consist of several buildings, including a warehouse and two paved areas utilized by its own vehicles and those of suppliers and customers. The "delivery area" has one wide driveway north of the proposed gates and presignal on Sunol. This area is used primarily by large trucks making deliveries to or taking materials from FSSC. The configuration of the delivery area is not at issue in this proceeding.

The "will call lot" is used, as its designation implies, primarily (but not exclusively) for pick-ups of materials by customers or transport services, such as UPS. Smaller vehicles making deliveries may also use this lot. Some FSSC service vehicles, such as forklifts, also operate in this area, bringing materials from the FSSC warehouse to customers' vehicles. The will call lot has two driveways: one on Auzerais and one on Sunol. The Sunol driveway to FSSC's will call lot is between the crossing gates and the tracks. Historically, customers have used both driveways to drive both in and out of the will call area.

As part of the Vasona Project, SCVTA surveyed its right-of-way and discovered that the FSSC will call lot had been encroaching on the right-of-way.

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[5] On February 10, 2004, FSSC filed a motion requesting that the Commission, as a responsible agency, undertake the preparation of a subsequent or supplemental EIR. See Pub. Res. Code § 21166; CEQA Guidelines §§ 15052, 15162, 15163. (The CEQA Guidelines are found at 14 Cal. Code Regs. § 15000 *et seq.*)

SCVTA filed an opposition to FSSC's motion on March 11, 2004; FSSC filed a reply on March 24, 2004. FSSC's motion is discussed in § 4.2, below.

SCVTA has put up fences at the boundary of the right-of-way, reducing the width of the Auzerais driveway to about 17 feet. The minimum safe width for a driveway with two-way truck traffic is 20 feet; a width of 28 feet is sometimes recommended.

3.4 Rail Corridor

SCVTA owns the entire corridor. The track used by Union Pacific Railroad Company (UPRR) freight trains is roughly in the middle of the right-of-way. UPRR runs approximately three freight trains per week, at speeds of up to 15 miles per hour (mph).

SCVTA intends to build the track for the Vasona Project on the north side of the corridor, with the centerline of the track approximately five feet from the northern boundary of the right-of-way. When revenue service begins in 2006, SCVTA intends to run light rail vehicles (LRVs) at least once every 15 minutes in each direction, with a speed limit of 50 mph. SCVTA may in the future add a second track for its LRVs. Although there are no current plans for this, it is likely that a second light rail track would be placed approximately where the freight track now is; the freight track would be relocated to the far southerly side of the corridor.

3.5 Traffic

The principal safety concerns at these crossings are queuing – vehicles waiting to traverse the intersection or continue along one of the streets away from the intersection forming a line that extends close to or onto the tracks – and turning movements to and from the FSSC driveways – vehicles exiting the driveways into the path of a train or stopping traffic (again queuing) while attempting to make left turns into or out of FSSC's premises.

The potential for queuing arises because there is approximately 90 feet of clear storage space for vehicles on southbound Sunol between the intersection and the trackway, and approximately 105 feet on eastbound Auzerais between the intersection and the trackway. These distances allow only a small number of vehicles to be stored safely.[6] The current pattern of traffic in the vicinity, including trucks of all sizes, from large semi-tractor trailers to pick-ups, coming into and out of FSSC, as well as possible changes in future traffic patterns, make this a significant issue.

Problems with vehicles exiting into the path of a train arise for the Sunol driveway because it is located between the tracks and the Standard No. 9 warning device. On Auzerais, in the absence of a gate, vehicles attempting a left turn out of the FSSC facility onto eastbound Auzerais have a clear path over the tracks. Although the driveway to the delivery area does not in itself create such problems, if a vehicle attempting a left turn into this driveway from northbound Sunol is delayed by southbound traffic, traffic behind the turning vehicle could queue onto the tracks without a chance to clear before a rail movement.

The issue of queuing at the Sunol / Auzerais intersection and crossings did not receive much attention in studies related to the Vasona Project. This intersection was not among the 62 "study intersections" analyzed in the EIR. A traffic operations study produced in February 2000, not used in the EIR, was based on a regional traffic forecast model using 1990 data and the assumption that the low-density industrial character of the area would continue. This study

[6] For example, one semi tractor-trailer truck and one auto, or four autos, could store on Auzerais. One semi tractor-trailer truck, or three autos, could store on Sunol.

projected that in 2015 the level of service at the Sunol / Auzerais intersection would be acceptable, even with delays caused by traffic halts for LRVs to pass. A count of traffic into and out of the FSSC facilities, performed in late October and early November 2001, found that approximately 120 vehicles (autos, pick-up trucks, single unit trucks, and combination trucks) per day used the FSSC facilities, but did not examine queuing issues.

Direct observation of the intersection and crossings has identified the occurrence of queuing problems. John Van Hoff, SCVTA's witness at the evidentiary hearing, reported that at site visits in spring 2000, personnel of SCVTA, the Commission, and the City noted that queues from the Sunol / Auzerais intersection occurred onto and sometimes past the grade crossings. Daniel Smith, FSSC's witness, noted in more recent observations that some traffic queues extended into the trackway at the crossings.

3.6 Land Use

The low-density industrial and industrial-related character of the area is changing. The site of a former Del Monte cannery at the northeast corner of the intersection is proposed for development of 400 new residential units. South of the intersection, on Sunol, the site of the current Reed and Graham aggregate operation is being considered as the site of a mixed-use office and residential project that could include up to 675,000 square feet of office space and more than 600 new residential units. The City is revising its general plan to allow high density residential, mixed-use, office, and public open space projects in the nearby area. Any of these plans, if implemented, could increase pedestrian and bicycle traffic in the area and could increase vehicle traffic, both in the near future and beyond what was originally forecast for 2015, on Auzerais and Sunol in the immediate vicinity of the crossings.

3.7 SCVTA's Revised Plan

SCVTA has proposed alterations to its original plan. Originally made as a settlement offer to FSSC, these revisions have been developed further for the record in this proceeding.[7] An engineered plan is attached as Appendix B. The fundamental features of the plan are the retention of the originally proposed crossing configuration, with the maintenance of the Sunol driveway as the exclusive entrance to FSSC's will call lot and the Auzerais driveway as the exclusive exit. In order to avoid problems of trucks blocking the tracks and potential queuing issues on Sunol, entry would be restricted to right turns from southbound Sunol; left turns into the driveway from northbound Sunol would be prohibited. Left turns into the delivery area, used primarily by large trucks, would also be prohibited. Exit on Auzerais would be allowed in either direction, with the proposed gate across the driveway being replaced by a three-quadrant gate. The three-quadrant design includes an "exit" gate on the westbound exit from the crossing, with its foundation located in the will-call lot adjacent to SCVTA's right of way, which will descend a predetermined amount of time after the entrance gates descend, to allow any vehicles in the crossing to exit the track area. This exit gate will prevent left turns from the Auzerais driveway onto

[7] This proposal was originally submitted as an attachment to SCVTA's Post-Hearing Opening Brief (March 22, 2004). It was reviewed at the site visit made by the ALJ with Commission staff, counsel for the parties, and SCVTA staff on April 1, 2004. The ALJ reopened the record on June 9, 2004 to request that SCVTA make some additions and revisions to the proposal and provide related information. SCVTA submitted the revised proposal and additional information on June 30, 2004. FSSC commented on the proposal and submitted additional information in filings dated July 15 and July 22, 2004; SCVTA filed a reply on July 29, 2004.

eastbound Auzerais (and onto the tracks) when a train is approaching. Traffic signs to effectuate this configuration are shown on the plan in Appendix B.[8]

In addition, SCVTA proposes certain signs, striping, and other small alterations on FSSC's property. SCVTA proposes to take easements from FSSC to allow it to install and maintain these alterations, as depicted on the plan in Appendix B.[9] SCVTA includes as part of its proposal the installation of a set of traffic control tire spikes to be placed in the will call lot near the Sunol driveway, to keep drivers from ignoring the signs and driving out onto Sunol.

4. Discussion

4.1 Configuration

The principal issue is how to reconcile the close proximity of FSSC, with its pick-up and delivery traffic, the combination of other traffic, and the two closely spaced diagonal crossings. SCVTA's original plan proposed to solve the problem of the very close proximity of the Sunol crossing to the Sunol driveway for the FSSC will call lot by closing that driveway to vehicular traffic. This would have left the 17-foot-wide Auzerais driveway as the sole means of both ingress and egress to FSSC's will call lot. This configuration would raise a new safety problem. Trucks trying to maneuver in and out of the substandard driveway could have accidents or come to a standstill, creating queues across the

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[8] These include "no left turn" signs on northbound Sunol before the warning devices and before the entrance to the delivery area driveway; "do not enter" and "no right turn" signs in front of the Auzerais driveway; and a "no left turn" sign across from the Auzerais driveway facing eastbound traffic on Auzerais.

[9] These include a striped "keep clear" area in the will call lot immediately adjacent to the Sunol driveway and "wrong way" signs to be posted in the will call lot before the driveway.

nearly adjacent tracks, uncontrolled by the traffic signals at the intersection or the crossing gates.

FSSC proposed that SCVTA reconfigure the location of its light rail track, and thus of the crossing warning devices, by placing the SCVTA track roughly where the UPRR freight track now is, and relocating the freight track to the south side of the corridor. FSSC asserts that this would move the tracks about 16 to 18 feet further away from FSSC and would allow the crossing warning devices to be located within the right-of-way. On the Sunol side, the will call driveway would no longer be between the gates and the track, but would be just north of the gates. The Auzerais driveway would remain 17 feet wide, but would be further removed from the tracks. FSSC notes that if SCVTA in addition gave it the use of a small piece of land on the Auzerais side, the driveway could be made wide enough to support two-way traffic.

This idea is simple: put the first of two potential SCVTA tracks in the middle of the corridor, and add any second track on the north side, just reversing the temporal order of building the SCVTA tracks and moving the UPRR freight track. On this record, however, this idea is insufficiently developed to be viable. It is presented only in the form of a sketch by FSSC's witness, Daniel Smith. Although Mr. Smith's expertise underlies this approach, the details necessary to evaluate it (*e.g.*, the exact location of crossing warning devices, the traffic signal timing, the location of the presignal) have not been brought forward. These details are crucial, since small differences between Mr. Smith's sketch and a practical engineered plan could render this idea impossible to implement.

FSSC objects to SCVTA's proposal set out in Appendix B, noting among other things the awkwardness for drivers of adjusting to the exclusive entrance on Sunol. A driver coming eastbound on Auzerais would turn north on Sunol,

be unable to turn left into the Sunol entrance, and would have to find a way to come back southbound on Sunol. Since FSSC is a wholesale business, however, its facility is used by many repeat customers and by professional transport drivers. Professional drivers and contractors are likely to assimilate the new layout quickly, in order to avoid the time lost in driving around. This temporary inconvenience is preferable to forcing drivers to use the Auzerais driveway as the sole entrance and exit for the will call lot.

With some changes, the SCVTA proposal set out in Appendix B will provide an acceptable level of safety at these crossings without requiring changes to FSSC's operation that could create additional safety problems. Converting the Auzerais driveway to a one-way exit eliminates the problem of trucks and other vehicles maneuvering in a two-way driveway of substandard width, with the potential of causing vehicles to get stuck in the driveway or on the tracks. The exit gate in the three-quadrant gate design will prevent left turns from the will call lot when a train is coming. If a vehicle turns left onto the tracks near the time a train is coming, the combination of the clear-out interval of the traffic signals, and the installation of vehicle detection technology within the crossing area will allow the vehicle to clear the tracks ahead of the approach of a train.[10]

Using the Sunol driveway as a one-way entrance, accessible only by a right turn from southbound Sunol, preserves the driveway for use by FSSC but greatly reduces the safety hazards of its continued operation. The presignal north of the driveway will stop traffic when a train is coming; if a vehicle has started to enter

[10] SCVTA has not specifically identified vehicle detection technology as part of the plan for the Auzerais crossing. We will order that it be included as an added measure to help ensure that vehicles will not be stranded in the crossing.

the driveway before the presignal turns red, it will be able to enter but vehicles behind it will be stopped. Since the Sunol side of the intersection is subject to the first clearance interval, a vehicle entering the driveway near the time a train arrives will have at least 24 seconds (the length of the Auzerais clearance interval) to succeed in entering the driveway.

The accompanying change to a right-turn-only entrance to the delivery area will reduce the possibility of traffic on northbound Sunol backing up onto the tracks as large semi tractor-trailer rigs headed north back into the delivery area. Any back-up of traffic north of a backing big rig on southbound Sunol will not affect the crossing. Commission staff should monitor compliance with the no-left-turn restriction.

SCVTA also proposes that a set of traffic control tire spikes be placed in the will call lot near the Sunol entrance, to prevent vehicles from exiting on Sunol. This draconian proposal creates the potential of having a truck, disabled by the tire spikes, blocking the Sunol entrance, or – worse – straddling the tracks, for an extended period of time. This plainly disastrous prospect is not necessary, if additional steps are taken to improve safety in other ways. The most important is the addition of flashing light units facing the Sunol driveway for FSSC to the Standard No. 9 warning devices directed to traffic on southbound Sunol. This active warning device for the Sunol driveway will provide drivers with the standard warning for a highway-rail crossing and make clear the nature of the hazard.

Emphasizing the one way in / one way out nature of the will call lot will also increase the effectiveness of the plan set out in Appendix B. FSSC currently has a sign with its name and address painted on the wall of the warehouse building just north of the Sunol will call driveway. To aid in identifying this as

the exclusive entrance to the will call lot, SCVTA should pay for the prominent addition of the words "Entrance (No left turn)" or similar wording to the sign area. SCVTA should also pay for painting signs on the side of the FSSC building closest to the Auzerais driveway, facing the will call lot, and on the driveway pavement, with "Exit Only" or similar wording. The pavement marking should consist of durable thermoplastic. In addition, SCVTA should pay for the installation of thermoplastic arrows on the pavement of the will call lot, indicating the one-way direction through the lot.[11]

Because of the unusual geometry of the crossings and the truck traffic in close proximity, as well as the absence of a physical barrier to prevent vehicles from exiting the will call lot onto Sunol, SCVTA must reduce the speed limit for its LRVs to 35 mph approaching and traveling through the crossings, to enable operators to see problems at the crossings more readily and to allow increased response times for the operators.

In order to increase compliance with the design we authorize, SCVTA should prepare, print, and deliver to FSSC's premises flyers, in appropriate languages, explaining the system and the dangers of ignoring it or violating the traffic signs.[12] These flyers should be provided to FSSC for distribution to employees, customers, suppliers, and delivery service drivers in the month before and first two months of revenue operation of the Vasona Project.

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[11] SCVTA proposes to take easements from FSSC to allow it to install and maintain the signs and other warnings on FSSC property. We express no opinion on the method – whether easement, contract, or other device – by which SCVTA and FSSC arrange to allow the work required by this order to be accomplished.

[12] SCVTA and FSSC should confer about what languages other than English, if any, would be best for communicating with drivers using FSSC's premises.

It is evident that this plan needs the cooperation of FSSC. FSSC must cooperate with SCVTA on the signs and striping for its premises. FSSC must encourage its employees and suppliers to comply with the new traffic flow pattern of its will call lot and the right-turn-only delivery area entrance on Sunol. We do not have jurisdiction to order FSSC to do this. We rely on the safety benefits of this plan, combined with its minimal disruption of FSSC's business, to align FSSC's interests with those of SCVTA and the general public in making it work.

4.2 CEQA

FSSC's request that the Commission undertake additional CEQA review is based on CEQA's standards for the preparation of subsequent or supplemental environmental impact reports, set out in Pub. Res. Code § 21166:

> When an environmental impact report has been prepared for a project pursuant to this division no subsequent or supplemental environmental impact report shall be required by the lead agency or by any responsible agency, unless one or more of the following events occurs:
>
> (a) Substantial changes are proposed in the project which will require major revisions of the environmental impact report.
>
> (b) Substantial changes occur with respect to the circumstances under which the project is being undertaken which will require major revisions in the environmental impact report.

> (c) New information, which was not known and could not have been known at the time the environmental impact report was certified as complete, becomes available.[13]

FSSC relies on the "new information" prong of these requirements, and asks the Commission, as a responsible agency, to take on this task pursuant to CEQA Guidelines §§ 15052, 15162, and 15163.

The legal standards for requiring a subsequent or supplemental EIR on the basis of new information are exacting. The information claimed to require the new study must not only be new[14], but must lead to the conclusion that the certified EIR did not address significant effects, or that significant effects addressed in the EIR will be more severe, or that better mitigation measures are both feasible and required. CEQA Guidelines § 15162. The courts have made it clear that these requirements are meaningful and must be met. See, e.g., *A Local and Regional Monitor v. City of Los Angeles* (1993) 12 Cal.App. 4th 1773, in which the court refused to require a responsible agency to prepare a subsequent EIR for a downtown redevelopment project in Los Angeles in response to the presentation of assertedly new information about traffic issues.

FSSC contends that the changes in land use planning and zoning to allow dense residential and commercial development in the area of San Jose close to the crossings, described in § 3.6 above, constitute such new information. FSSC

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[13] These requirements are explained and elaborated in CEQA Guidelines §§ 15162 (subsequent EIR or negative declaration) and 15163 (supplemental EIR).

[14] The CEQA Guidelines note that this must be "[n]ew information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified. . ." CEQA Guidelines § 15162, subd. (a)(3).

also argues that because the EIR did not include any study of the Sunol / Auzerais intersection, any specific, current information developed about the intersection and the crossings is new information for CEQA purposes.

SCVTA asserts that the impacts of the Vasona Project as a whole were properly considered in the EIR, because the EIR noted that redevelopment projects throughout the area of the Vasona Project were tending toward residential and commercial development and away from industrial development. The identification of particular rezoning actions or redevelopment projects in the vicinity of the crossings does not rise, SCVTA asserts, to the level of genuinely new information requiring that the environmental review be reopened.

We do not need to choose between FSSC's claim that the EIR needs more detailed information about the area of the crossings as now known, and SCVTA's assertion that any deficiencies that may be found to exist in the EIR are too minor to warrant revisiting the CEQA process. Our own authority over rail crossing safety under Pub. Util. Code § 1202 allows us to set requirements for warning devices at these two crossings based on the evidence in the record of this proceeding, including the EIR and other studies. This record is sufficient for us to make the necessary determinations. The further CEQA study that FSSC seeks is unnecessary in this case. FSSC's motion should therefore be denied.

5. Comments on Proposed Decision

The proposed decision of the Administrative Law Judge in this matter was mailed to the parties in accordance with Section 311(d) of the Public Utilities Code and Rule 77.7 of the Rules of Practice and Procedure. Complainant filed timely comments. We have taken them into account, as appropriate, in finalizing this decision.

Assignment of Proceeding

Carl W. Wood is the Assigned Commissioner and Anne E. Simon is the Assigned Administrative Law Judge.

Findings of Fact

1. The at-grade crossing of Sunol Street by tracks of SCVTA and UPRR is identified as PUC Crossing No. 82D-4.1.

2. The at-grade crossing of Auzerais Avenue by tracks of SCVTA and UPRR is identified as PUC Crossing No. 82D-4.2.

3. SCVTA owns the entire right-of-way in the vicinity of the Sunol and Auzerais crossings.

4. UPRR currently runs three freight trains per week, at maximum speeds of 15 mph, through the crossings at Sunol and Auzerais.

5. SCVTA intends to run LRVs at intervals of at least 15 minutes in each direction through the crossings at Sunol and Auzerais, at maximum speeds of 50 mph.

6. Approximately 120 motor vehicles of customers and suppliers enter and exit FSSC's premises each working day. The vehicles use the delivery area driveway on Sunol, north of the crossing on Sunol; the will call driveway on Auzerais, just west of the crossing on Auzerais; and the will call driveway on Sunol, just west of the trackway on Sunol.

7. As part of the Vasona Project, SCVTA surveyed its right-of-way.

8. Adjustment of the right-of-way line for the Sunol / Auzerais crossing area resulted in a width of 17 feet for the Auzerais driveway at FSSC.

9. The minimum safe width for a driveway with two-way truck traffic is 20 feet.

10. Vehicular traffic sometimes queues onto the tracks at the Sunol and Auzerais crossings.

11. Planning for land use in the area of the crossings projects increased residential and other non-industrial uses of property in the vicinity of the crossings.

12. SCVTA's proposed design for the crossing warning devices, related traffic signals and signs, and signs on FSSC property set out in Appendix B, will, with certain modifications, provide an adequate degree of safety at the Sunol and Auzerais crossings.

13. Modifications to SCVTA's proposed design set out in Appendix B necessary for safe operation at the crossings are:

a. Elimination of the proposed traffic control tire spikes;

b. Addition of signs on the Sunol building of FSSC indicating Entrance, No Left Turn;

c. Addition of thermoplastic arrows in the FSSC will call lot indicating the one-way direction of travel;

d. Addition of flashers directed to the Sunol entrance to the will call lot on the Standard No. 9 for southbound Sunol traffic;

e. Addition of signs on the FSSC building closest to the Auzerais driveway indicating Exit Only;

f. Addition of vehicle detection technology in the Auzerais crossing.

14. A speed limit of 35 mph for LRVs approaching and traveling though the crossings will improve operators' ability to see and react to problems at the crossings and will enhance safety.

15. SCVTA is the lead agency for the Project under CEQA and NEPA.

16. The Commission is a responsible agency for the Project under CEQA.

17. The Commission reviewed and considered SCVTA's environmental documentation.

Conclusions of Law

1. The application should be granted as set forth in the following order.
2. FSSC's motion for supplemental environmental review should be denied.
3. In order to allow construction to proceed expeditiously, this order should be effective immediately.

O R D E R

IT IS ORDERED that:

1. The Motion Requesting Supplemental Environmental Review by California Public Utilities Commission, filed by Floor Service Supply Company (FSSC) on February 10, 2004, is denied.

2. The Santa Clara Valley Transportation Authority (SCVTA) is authorized to construct crossing warning devices as described in this Order at the at-grade crossings identified as PUC Crossing No. 82D-4.1 at Sunol Street and PUC Crossing No. 82D-4.2 at Auzerais Avenue in the City of San Jose, County of Santa Clara.

3. SCVTA is authorized to undertake the work shown on the plan in Appendix B, as modified by:

- Elimination of the proposed traffic control tire spikes;
- Addition of signs on the Sunol building of FSSC indicating Entrance, No Left Turn;
- Addition of thermoplastic arrows in the FSSC will call lot indicating the one-way direction of travel;

- Addition of flashers directed to the Sunol entrance to the will call lot to be mounted on the Standard No. 9 for southbound Sunol traffic;
- Addition of signs on the FSSC building closest to the Auzerais driveway indicating Exit Only;
- Addition of vehicle detection technology at the Auzerais crossing;

4. The work shall conform to the design details set forth in Appendix C.

5. SCVTA shall, one month prior to the beginning of revenue service on the Vasona Project and for the first two months of revenue service, prepare, print, and deliver to FSSC flyers in appropriate languages explaining the configuration authorized by this order and the dangers of ignoring or violating the traffic signs.

6. Installation of traffic signs on the streets and signs, striping, and any other miscellaneous safety apparatus on the premises of FSSC as described in Appendix B, Appendix C, and paragraphs 3 and 4 of this Order are conditions of this authorization.

7. Staff shall monitor compliance with no-left-turn restrictions.

8. SCVTA shall institute and enforce a speed limit of 35 mph for light rail vehicles approaching and traveling through the Sunol and Auzerais crossings.

9. SCVTA shall comply with all relevant requirements of the Commission's General Orders and the Manual of Uniform Traffic Control Devices published by the Federal Highway Administration, United States Department of Transportation.

10. Within 30 days after completion of the work at the crossings and on public streets or other public property under this order, SCVTA shall notify the Rail Crossing Engineering Section (RCES) in writing, by submitting a completed standard Commission Form G (Report of Changes at Highway Grade Crossings and Separations), that the authorized work is completed.

11. Within 30 days after the completion of the work identified to be on the property of FSSC, SCVTA shall notify in writing the Executive Director, RCES, and FSSC.

12. All work required by this authorization shall be completed before revenue service begins on the Vasona Project.

13. This authorization shall expire if not exercised within two years unless the time is extended.

14. This authorization shall expire if the above conditions are not complied with.

15. This authorization may be revoked or modified if public convenience, necessity, or safety so require.

16. This application is granted as set forth above.

17. Application 02-01-031 is closed.

This order is effective today.

Dated November 19, 2004, at San Francisco, California.

MICHAEL R. PEEVEY
President
CARL W. WOOD
LORETTA M. LYNCH
GEOFFREY F. BROWN
SUSAN P. KENNEDY
Commissioners

Appendix A

Appendix B

Appendix C

Specific Design Details
Sunol Street Crossing

1. Warning devices shall consist of two Standard No. 9s (flashing light signals with automatic gates) as described in GO 75-C. An extra set of flashing lights shall be mounted on the Standard No. 9 located in the northwest quadrant. The extra set of flashers shall be pointed towards the adjacent driveway to provide warning to motorists inadvertently attempting to exit the "enter only" driveway.

2. The initial 15 feet of the adjacent driveway shall be designated a "keep clear" area, marked with thermoplastic "Keep Clear" text and cross hatching. Additionally, thermoplastic arrows will be located at the entrance of the FSSC will call lot indicating the one-way direction of travel.

3. A traffic signal shall be installed for southbound traffic on Sunol Street acting as a "presignal," to prevent vehicles from entering the crossing prior to the preemption clear-out traffic phase.

4. High visibility signs shall be placed on the FSSC building on Sunol, (located in the northwest quadrant of the Sunol crossing) indicating "Entrance" and "No Left Turn" (or similar wording).

5. The centerline of Sunol Street shall be marked with "Double-Double" yellow striping to prohibit left turns from northbound Sunol Street into both the will call and delivery driveways of the FSSC facility. Commission staff shall monitor compliance with no left turns in this vicinity.

Specific Design Details
Auzerais Avenue Crossing

1. The warning devices at Auzerais Avenue shall consist of three Standard No. 9s, two placed on the western and eastern approaches to the crossing and the third mounted as an exit gate for westbound traffic on Auzerais Avenue, for a three-quad gate arrangement. Vehicle detection for westbound traffic shall be provided to guard against vehicles being trapped behind the exit gate.

2. High visibility signs shall be placed on the FSSC building closest to the Auzerais driveway indicating “Exit Only” (or similar wording).

3. Thermoplastic arrows shall be placed on the pavement in the FSSC will call lot indicating the one-way (Exit Only) direction of travel.

(End of Appendix C)